

**27123**

**CUSTOMER  
NUMBER**

Docket No. 4439-4025

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s):	Masayuki Amagai	Confirmation No.:	3825
Serial No.:	10/510,001	Group Art Unit:	1644
Filed:	September 30, 2004	Examiner:	Gambel, Phillip
For:	REMEDIES FOR PEMPHIGUS CONTAINING ANTI-CD40L ANTIBODIES AS THE ACTIVE INGREDIENT		

**RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the Notice of Non-Compliant Amendment dated December 19, 2007, the applicant(s) respectfully requests reconsideration in view of the following agreement reached during the telephonic interview conducted between the applicant and Examiner Gambel.

In addition, under 37 C.F.R. §1.7(a) when the last day to take action falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the action may be taken on the next succeeding business day which is not a Saturday, Sunday, or Federal holiday, *i.e.*, January 22, 2008 without additional extension fees.

**Interview Summary** begin on page 2 of this paper.

**INTERVIEW SUMMARY**

Applicants wish to thank the Examiner for the courtesies extended during the telephone conversation on January 17, 2008 and January 22, 2008. The Notice of Non-Compliant Amendment dated December 19, 2007 pertaining to the Applicant's amendment and the Request for Continued Examination (RCE) filed on November 26, 2007 were discussed. Specifically, the Notice states that the Applicant's amendment filed on November 26, 2007 will not be entered because the applicant allegedly switched the invention, which is not allowed under provisions of 37 C.F.R. §1.145.

During the interview, the applicant respectfully pointed out to the Examiner that this patent application was filed under 37 C.F.R. §371 as a National Phase application of an International PCT application. Therefore, the requirement of unity of invention under 37 C.F.R. §1.475 should apply. Specifically, 37 C.F.R. §1.475(a) states:

An international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

Furthermore, 37 C.F.R. §1.475(b)(2) states that:

An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories...(2) A product and a process of use of said product.

Thus, a remedy for treating and preventing pemphigus and a method or a process of using such a remedy would fall under the provisions of 37 C.F.R. §1.475 and the requirement

of unity of invention would have been fulfilled since there is a technical relationship among these inventions as outlined in section 37 C.F.R. §1.475(b)(2).

Thus, pursuant to the statute, Examiner Gambel has acknowledged that the amendment and response filed on November 26, 2007 under the provisions of 37 C.F.R §1.114 will therefore be entered and considered with a Request for Continued Examination.

### **CONCLUSION**

Based on the foregoing interview summary, the applicant respectfully requests reconsideration and withdrawal of the notice of non-compliant amendment dated December 19, 2008 and allowance of this application. The applicants respectfully submit that the instant application is in condition for allowance. Entry of the amendment and an action passing this case to issue is therefore respectfully requested. In the event that a telephone conference would facilitate examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided. Favorable action by the Examiner is earnestly solicited.

**AUTHORIZATION**


The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **13-4500**, Order No. 4439-4025.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **13-4500**, Order No. 4439-4025.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: January 22, 2008

By: \_\_\_\_\_

  
Serge Ilin-Schneider  
Registration No. 61,584

Correspondence Address:  
MORGAN & FINNEGAN, L.L.P.  
3 World Financial Center  
New York, NY 10281-2101  
(212) 415-8700 Telephone  
(212) 415-8701 Facsimile